The other evidence used to link petitioner to the crime was highly problematic. In particular, the credibility of the other individuals who linked petitioner to the murder was low. Ollie Berrios, who implicated petitioner, received total immunity for his involvement in the crime in exchange for his testimony. Pet. 2d Cir. Br. 4 & n.5; Tr. 1635–1636. And Santiago Feliciano, the government's other main witness, pleaded guilty immediately after he was indicted and cooperated with the government in exchange for favorable treatment. Pet. C.A. Br. 5 n.7. Any defense lawyer worth his or her salt would be more than happy to try a case in which the primary evidence against the defendant was the testimony of such dubious cooperating witnesses.

Thus, given (1) the questionable nature of the evidence against petitioner other than Lopez's eyewitness testimony, (2) the importance jurors place on eyewitness testimony, and (3) the high burden the government would have to meet to demonstrate harmless error, the government's harmless-error argument provides no basis to deny the petition for certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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